

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DOUGLAS JAMES BITTINGER,
Petitioner,

v.

Civil Action No. 06-558

DAVID DIGUGLIELMO, et al.,

Judge Thomas M. Hardiman
Magistrate Judge Lisa Pupo Lenihan

Respondents.

MEMORANDUM ORDER

On April 27, 2006, the Petitioner, Douglas James Bittinger, presented a petition for a writ of habeas corpus which he seeks leave to prosecute in forma pauperis. The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 2), filed on May 4, 2006, recommended that the Petitioner's Motion for Leave to Proceed *In Forma Pauperis* (Doc. No. 1) be denied because his account at the State Correctional Institution at Graterford contains a sum well in excess of the \$5.00 filing fee required to commence this action and because it further appears that requiring the Petitioner to pay the filing fee will not deprive him of any necessities of life at the Institution. The Petitioner was informed that, in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, he had ten (10) days to file any objections.

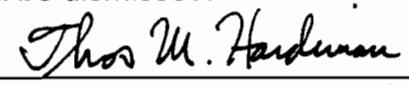
The Petitioner did not file objections to the Report and Recommendation.

Accordingly, after review of the pleadings in this case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 30th day of May, 2006;

IT IS HEREBY ORDERED that the Petitioner's Motion for Leave to Proceed *In Forma Pauperis* (Doc. No. 1) is DENIED and the Report and Recommendation (Doc. No. 2) of Magistrate Judge Lenihan, dated May 4, 2006, is adopted as the opinion of the court;

IT IS FURTHER ORDERED that if the Petitioner wishes to proceed with this action, he must submit the \$5.00 filing fee within 20 days of the date of this Order. If he does not do so, this action will be dismissed.



The Honorable Thomas M. Hardiman
United States District Court Judge

cc: Lisa Pupo Lenihan
UNITED STATES MAGISTRATE JUDGE

Douglas James Bittinger
EQ-8035
SCI Graterford
PO Box 244
Graterford, PA 19426